

PROPOSED CONSTITUTIONAL AMENDMENTS

retired and former judges, and certain masters and magistrates of the courts."

Passed by the House on March 28, 1983: Yeas 141, Nays 1, 1 present, not voting; passed by the Senate on May 25, 1983: Yeas 24, Nays 0.

Filed without signature.

Filed with the Secretary of State, May 27, 1988.

PROPOSED CONSTITUTIONAL AMENDMENTS—COLLEGES AND UNIVERSITIES—FUNDING

H. J. R. No. 19

A JOINT RESOLUTION

proposing a constitutional amendment to provide funds for the support of higher education and to restructure the permanent university fund.

BE IT RESOLVED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. That Article VII of the Texas Constitution be amended by adding Section 17 to read as follows:

Sec. 17. (a) In the fiscal year beginning September 1, 1985, and each fiscal year thereafter, there is hereby appropriated out of the first money coming into the state treasury not otherwise appropriated by the constitution \$100 million to be used by eligible agencies and institutions of higher education for the purpose of acquiring land either with or without permanent improvements, constructing and equipping buildings or other permanent improvements, major repair or rehabilitation of buildings or other permanent improvements, and acquisition of capital equipment, library books and library materials. During the regular session of the legislature that is nearest, but preceding, the beginning of each fifth fiscal year dating from September 1, 1985, the legislature may by two-thirds vote of the membership of each house adjust the amount of the constitutional appropriation for the ensuing five years but may not adjust the appropriation in such a

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way as to impair any obligation created by the issuance of bonds or notes in accordance with this section.

(b) The funds appropriated under Subsection (a) of this section shall be for the use of the following eligible agencies and institutions of higher education (even though their names may be changed):

(1) East Texas State University including East Texas State University at Texarkana;

(2) Lamar University including Lamar University at Orange and Lamar University at Port Arthur;

(3) Midwestern State University;

(4) North Texas State University;

(5) Pan American University including Pan American University at Brownsville;

(6) Stephen F. Austin State University;

(7) Texas College of Osteopathic Medicine;

(8) Texas State University System Administration and the following component institutions:

(9) Angelo State University;

(10) Sam Houston State University;

(11) Southwest Texas State University;

(12) Sul Ross State University including Uvalde Study Center;

(13) Texas Southern University;

(14) Texas Tech University;

(15) Texas Tech University Health Sciences Center;

(16) Texas Woman's University;

(17) University of Houston System Administration and the following component institutions:

(18) University of Houston - University Park;

(19) University of Houston - Victoria;

(20) University of Houston - Clear Lake;

(21) University of Houston - Downtown;

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(22) University System of South Texas System Administration and the following component institutions:

(23) Corpus Christi State University;

(24) Laredo State University;

(25) Texas A&I University; and

(26) West Texas State University.

(c) Pursuant to a two-thirds vote of the membership of each house of the legislature, institutions of higher education may be created at a later date by general law, and, when created such an institution shall be entitled to participate in the funding provided by this section if it is not created as a part of The University of Texas System or The Texas A&M University System. An institution that is entitled to participate in dedicated funding provided by Article VII, Section 18, of this constitution may not be entitled to participate in the funding provided by this section.

(d) In the year 1985 and every 10 years thereafter, the legislature or an agency designated by the legislature no later than August 31 of such year shall allocate by equitable formula the annual appropriations made under Subsection (a) of this section to the governing boards of eligible agencies and institutions of higher education. The legislature shall review, or provide for a review, of the allocation formula at the end of the fifth year of each 10-year allocation period. At that time adjustments may be made in the allocation formula, but no adjustment that will prevent the payment of outstanding bonds and notes, both principal and interest, may be made

(e) Each governing board authorized to participate in the distribution of money under this section is authorized to expend all money distributed to it for any of the purposes enumerated in Subsection (a). In addition, unless a single bonding agency is designated as hereinafter provided, such governing board may issue bonds and notes for the purposes of refunding bonds or notes issued under this section or prior law, acquiring land either with or

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without permanent improvements, constructing and equipping buildings or other permanent improvements, and for major repair and rehabilitation of buildings or other permanent improvements, and may pledge up to 50 percent of the money allocated to such governing board pursuant to this section to secure the payment of the principal and interest of such bonds or notes. Proceeds from the issuance of bonds or notes under this subsection shall be maintained in a local depository selected by the governing board issuing the bonds or notes. The bonds and notes issued under this subsection shall be payable solely out of the money appropriated by this section and shall mature serially or otherwise in not more than 10 years from their respective dates. All bonds issued under this section shall be sold only through competitive bidding and are subject to approval by the attorney general. Bonds approved by the attorney general shall be incontestable. The permanent university fund may be invested in the bonds and notes issued under this section. In lieu of the authority granted to each governing board herein, the legislature by general law may designate a single agency to issue bonds and notes authorized under this section and transfer to that agency the authority to collect and pledge money to the payment of such bonds and notes for the purposes, to the extent, and subject to the restrictions of this section. Provided, that such agency shall be authorized to issue such bonds and notes for the benefit of an eligible institution and pledge money collected hereunder only as directed by the governing board of each eligible institution.

(f) The funds appropriated by this section may not be used for the purpose of constructing, equipping, repairing, or rehabilitating buildings or other permanent improvements that are to be used for student housing, intercollegiate athletics, or auxiliary enterprises.

(g) Except for that portion of the allocated funds that may be required to be transferred to a single bonding agency, if one is

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created, the comptroller of public accounts shall make annual transfers of the funds allocated pursuant to Subsection (d) directly to the governing boards of the eligible institutions.

(h) To assure efficient use of construction funds and the orderly development of physical plants to accommodate the state's real need, the legislature may provide for the approval or disapproval of all new construction projects at the eligible agencies and institutions entitled to participate in the funding provided by this section.

(i) The legislature by general law may dedicate portions of the state's revenues to the creation of a dedicated fund ("the higher education fund") for the purposes expressed in Subsection (a) of this section. The legislature shall provide for administration of the fund, which shall be invested in the manner provided for investment of the permanent university fund. The income from the investment of the higher education fund shall be credited to the higher education fund until such time as the fund totals \$2 billion. The principal of the higher education fund shall never be expended. At the beginning of the fiscal year after the fund reaches \$2 billion, as certified by the comptroller of public accounts, the dedication of general revenue funds provided for in Subsection (a) of this section shall cease. At the beginning of the fiscal year after the fund reaches \$2 billion, and each year thereafter, 10 percent of the interest, dividends, and other income accruing from the investments of the higher education fund during the previous fiscal year shall be deposited and become part of the principal of the fund, and out of the remainder of the annual income from the investment of the principal of the fund there shall be appropriated an annual sum sufficient to pay the principal and interest due on the bonds and notes issued under this section and the balance of the income shall be allocated, distributed, and expended as provided for the appropriations made under Subsection (a).

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(j) The state systems and institutions of higher education designated in this section may not receive any additional funds from the general revenue of the state for acquiring land with or without permanent improvements, for constructing or equipping buildings or other permanent improvements, or for major repair and rehabilitation of buildings or other permanent improvements except that:

(1) in the case of fire or natural disaster the legislature may appropriate from the general revenue an amount sufficient to replace the uninsured loss of any building or other permanent improvement; and

(2) the legislature, by two-thirds vote of each house, may, in cases of demonstrated need, which need must be clearly expressed in the body of the act, appropriate additional general revenue funds for acquiring land with or without permanent improvements, for constructing or equipping buildings or other permanent improvements, or for major repair and rehabilitation of buildings or other permanent improvements.

This subsection does not apply to legislative appropriations made prior to the adoption of this amendment.

(k) Without the prior approval of the legislature, appropriations under this section may not be expended for acquiring land with or without permanent improvements, or for constructing and equipping buildings or other permanent improvements, for a branch campus or educational center that is not a separate degree-granting institution created by general law.

(l) This section is self-enacting upon the issuance of the governor's proclamation declaring the adoption of the amendment, and the state comptroller of public accounts and the state treasurer shall do all things necessary to effectuate this section. This section does not impair any obligation created by the issuance of any bonds and notes in accordance with prior law, and all outstanding bonds and notes shall be paid in full, both principal

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and interest, in accordance with their terms. If the provisions of this section conflict with any other provisions of this constitution, then the provisions of this section shall prevail, notwithstanding all such conflicting provisions.

SECTION 2. That Article VII, Section 14, of the Texas Constitution be revised to read as follows:

Sec. 14. Prairie View A&M University in Waller County is an institution of the first class under the direction of the same governing board as Texas A&M University referred to in Article VII, Section 13, of this constitution as the Agricultural and Mechanical College of Texas.

SECTION 3. That Article VII, Section 18, of the Texas Constitution be revised to read as follows:

Sec. 18. (a) The Board of Regents of The Texas A&M University System may issue bonds and notes not to exceed a total amount of 10 percent of the cost value of the investments and other assets of the permanent university fund (exclusive of real estate) at the time of the issuance thereof, and may pledge all or any part of its one-third interest in the available university fund to secure the payment of the principal and interest of those bonds and notes, for the purpose of acquiring land either with or without permanent improvements, constructing and equipping buildings or other permanent improvements, major repair and rehabilitation of buildings and other permanent improvements, acquiring capital equipment and library books and library materials, and refunding bonds or notes issued under this Section or prior law, at or for The Texas A&M University System administration and the following component institutions of the system:

(1) Texas A&M University, including its medical college which the legislature may authorize as a separate medical institution;

(2) Prairie View A&M University, including its nursing school in Houston;

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- (3) Tarleton State University;
- (4) Texas A&M University at Galveston;
- (5) Texas Forest Service;
- (6) Texas Agricultural Experiment Stations;
- (7) Texas Agricultural Extension Service;
- (8) Texas Engineering Experiment Stations;
- (9) Texas Transportation Institute; and
- (10) Texas Engineering Extension Service.

(b) The Board of Regents of The University of Texas System may issue bonds and notes not to exceed a total amount of 20 percent of the cost value of investments and other assets of the permanent university fund (exclusive of real estate) at the time of issuance thereof, and may pledge all or any part of its two-thirds interest in the available university fund to secure the payment of the principal and interest of those bonds and notes, for the purpose of acquiring land either with or without permanent improvements, constructing and equipping buildings or other permanent improvements, major repair and rehabilitation of buildings and other permanent improvements, acquiring capital equipment and library books and library materials, and refunding bonds or notes issued under this section or prior law, at or for The University of Texas System administration and the following component institutions of the system:

- (1) The University of Texas at Arlington;
- (2) The University of Texas at Austin;
- (3) The University of Texas at Dallas;
- (4) The University of Texas at El Paso;
- (5) The University of Texas of the Permian Basin;
- (6) The University of Texas at San Antonio;
- (7) The University of Texas at Tyler;
- (8) The University of Texas Health Science Center at Dallas;
- (9) The University of Texas Medical Branch at Galveston;

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(10) The University of Texas Health Science Center at Houston;

(11) The University of Texas Health Science Center at San Antonio;

(12) The University of Texas System Cancer Center;

(13) The University of Texas Health Center at Tyler; and

(14) The University of Texas Institute of Texan Cultures at San Antonio.

(c) Pursuant to a two-thirds vote of the membership of each house of the legislature, institutions of higher education may be created at a later date as a part of The University of Texas System or The Texas A&M University System by general law, and, when created, such an institution shall be entitled to participate in the funding provided by this section for the system in which it is created. An institution that is entitled to participate in dedicated funding provided by Article VII, Section 17, of this constitution may not be entitled to participate in the funding provided by this section.

(d) The proceeds of the bonds or notes issued under Subsection (a) or (b) of this section may not be used for the purpose of constructing, equipping, repairing, or rehabilitating buildings or other permanent improvements that are to be used for student housing, intercollegiate athletics, or auxiliary enterprises.

(e) The available university fund consists of the dividends, interest and other income from the permanent university fund (less administrative expenses) including the net income attributable to the surface of permanent university fund land. Out of one-third of the available university fund, there shall be appropriated an annual sum sufficient to pay the principal and interest due on the bonds and notes issued by the Board of Regents of The Texas A&M University System under this section and prior law, and the remainder of that one-third of the available university fund shall

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be appropriated to the Board of Regents of The Texas A&M University System which shall have the authority and duty in turn to appropriate an equitable portion of the same for the support and maintenance of The Texas A&M University System administration, Texas A&M University, and Prairie View A&M University. The Board of Regents of The Texas A&M University System, in making just and equitable appropriations to Texas A&M University and Prairie View A&M University, shall exercise its discretion with due regard to such criteria as the board may deem appropriate from year to year, taking into account all amounts appropriated from Subsection (f) of this section. Out of the other two-thirds of the available university fund there shall be appropriated an annual sum sufficient to pay the principal and interest due on the bonds and notes issued by the Board of Regents of The University of Texas System under this section and prior law, and the remainder of such two-thirds of the available university fund, shall be appropriated for the support and maintenance of The University of Texas at Austin and The University of Texas System administration.

(f) It is provided, however, that, for 10 years beginning upon the adoption of this amendment, before any other allocation is made of The University of Texas System's two-thirds share of the available university fund, remaining after payment of principal and interest on its bonds and notes issued under this section and prior law, \$6 million per year shall be appropriated out of that share to the Board of Regents of The Texas A&M University System for said board's use in making appropriations to Prairie View A&M University. This subsection expires and is deleted from this constitution 10 years from the adoption of this amendment.

(g) The bonds and notes issued under this section shall be payable solely out of the available university fund, mature serially or otherwise in not more than 30 years from their respective dates, and, except for refunding bonds, be sold only through competitive bidding. All of these bonds and notes are

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subject to approval by the attorney general and when so approved are incontestable. The permanent university fund may be invested in these bonds and notes.

(h) To assure efficient use of construction funds and the orderly development of physical plants to accommodate the state's real need, the legislature may provide for the approval or disapproval of all new construction projects at the eligible agencies and institutions entitled to participate in the funding provided by this section except The University of Texas at Austin, Texas A&M University in College Station, and Prairie View A&M University.

(1) The state systems and institutions of higher education designated in this section may not receive any funds from the general revenue of the state for acquiring land with or without permanent improvements, for constructing or equipping buildings or other permanent improvements, or for major repair and rehabilitation of buildings or other permanent improvements except that:

(1) in the case of fire or natural disaster the legislature may appropriate from the general revenue an amount sufficient to replace the uninsured loss of any building or other permanent improvement; and

(2) the legislature, by two-thirds vote of each house, may, in cases of demonstrated need, which need must be clearly expressed in the body of the act, appropriate general revenue funds for acquiring land with or without permanent improvements, for constructing or equipping buildings or other permanent improvements, or for major repair and rehabilitation of buildings or other permanent improvements.

This subsection does not apply to legislative appropriations made prior to the adoption of this amendment.

(j) This section is self-enacting on the issuance of the governor's proclamation declaring the adoption of this amendment,

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and the state comptroller of public accounts and the state treasurer shall do all things necessary to effectuate this section. This section does not impair any obligation created by the issuance of bonds or notes in accordance with prior law, and all outstanding bonds and notes shall be paid in full, both principal and interest, in accordance with their terms, and the changes herein made in the allocation of the available university fund shall not affect the pledges thereof made in connection with such bonds or notes heretofore issued. If the provisions of this section conflict with any other provision of this constitution, then the provisions of this section shall prevail, notwithstanding any such conflicting provisions.

SECTION 4. This proposed constitutional amendment shall be submitted to the voters at an election to be held on November 6, 1984. The ballot shall be printed to provide for voting for or against the proposition: "The constitutional amendment to create from general revenue a special higher education assistance fund for construction and related activities, to restructure the permanent university fund, and to increase the number of institutions eligible to benefit from the permanent university fund."

Passed by the House on February 22, 1983: Yeas 139, Nays 7, 1 present, not voting; House refused to concur in Senate amendments to H.J.R. No. 19 on April 20, 1983, by a non-record vote and requested the appointment of a conference committee to consider the differences between the two houses; House adopted the conference committee report on H.J.R. No. 19 on May 25, 1983: Yeas 131, Nays 13, 2 present, not voting; passed by the Senate, with amendments, on April 13, 1983: Yeas 25, Nays 5; at the request of the House, the Senate appointed a conference committee to consider the differences between the two houses; Senate adopted the conference committee report on H.J.R. No. 19 on May 25, 1983: Yeas 29, Nays 2.

Filed without signature.

Filed with the Secretary of State, May 28, 1983.

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